

REMARKS

Claims 22-37 are pending in the present application. In the Office Action mailed February 24, 2006, the Examiner rejected claims 22-28 under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. The Examiner next rejected claims 22, 24, 26-31, 33-35 and 37 under 35 U.S.C. §102(e) as being anticipated by Kennedy et al. (USP 6,963,847 – hereinafter Kennedy). Claims 23, 25, 32 and 35 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kennedy in view of Tucker et al. (USP 5,452,218 hereinafter – Tucker). The Examiner objected to the drawings as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference characters not mentioned in the description. The Examiner objected to the Specification for missing a cross reference to related applications component and for missing a “Field of the Invention” component.

Objection to Priority

The Examiner indicated that a specific reference for claiming the benefit of a prior-filed application must be included in the first sentence of the specification following the title. *Office Action, Feb. 24, 2006, p. 2.* A specific reference to a prior-filed application has been filed previously. On August 1, 2003, Applicant mailed the above-captioned application together with a Preliminary Amendment to the USPTO. In the Preliminary Amendment, Applicant amended the Specification to include a paragraph claiming priority to U.S. Ser. No. 09/748,520 filed December 22, 2000. Also in the Preliminary Amendment, Applicant canceled claims 1-21 and added new claims 22-37. The Examiner acknowledged the presentation of the new claims; however, the Examiner failed to acknowledge the paragraph claiming priority. As shown in PAIR, the USPTO received the above-captioned application and the Preliminary Amendment. PAIR indicates USPTO receipt of the original Specification containing sixteen pages and the document sheet of the Preliminary Amendment categorized as “Specification”, which contains one page that includes adding the paragraph claiming the benefit of an earlier filed application as the first sentence of the Specification.

As such, the paragraph claiming the benefit of an earlier filed application has already been filed in the above-captioned application. Additionally, Applicant has amended the paragraph claiming the benefit of an earlier filed application herein to correct grammatical errors.

Objection to the Drawings

The Examiner objected to the drawings because Fig. 7 includes reference characters not mentioned in the Specification. Applicant has amended paragraph [0039] of the Specification to

include the reference characters. As such, Applicant believes that the Examiner's objection has been overcome and requests withdrawal thereof.

Objection to the Specification

As addressed above, a cross reference to a related application has been filed on August 1, 2003. As such, a cross reference is not missing in the above-captioned application.

With regard to the field of the invention, MPEP section 608.01(c) states that the background ordinarily comprises a field of the invention part and a description of the related art part. However, it is not mandatory that the Specification comprise such parts. The MPEP does not mandate the inclusion of such parts in the background section. Furthermore, while not specifically labeled as "Field of the Invention", the Specification states, "The present invention relates generally to electronically reporting the status of product availability, number of orders, and current sales revenue." *See Specification, page 1*. As such, the Specification contains "a statement of the field of art to which the invention pertains." *MPEP §608.01(c)*.

Accordingly, Applicant requests withdrawal of the Examiner's objection to the Specification.

Rejection under §101

The Examiner stated that "[c]aims 22-28 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter." *Office Action, supra at 5*. However, the Examiner then states that claims 33-37 "are non-statutory because they purport to computer signals, which do not belong to any of the 4 enumerated statutory classes of invention." *Id.* Since claims 22-28 are directed to a method, which is an enumerated statutory class of invention, Applicant requests withdrawal of the rejection of claims 22-28 under §101.

Further, even if the Examiner were to reject claims 33-37 under §101 in a subsequent Office Action, MPEP §2106(IV)(B)(1)(c) states, "a signal claim directed to a practical application of electromagnetic energy is statutory regardless of its transitory nature. *See O'Reilly*, 56 U.S. at 114-19; *In re Breslow*, 616 F.2d 516, 519-21, 205 USPQ 221, 225-26 (CCPA 1980)." Claims 33-37 are directed to the practical application of electromagnetic energy. As such, Applicant believes that claims 33-37 are statutory as explained in MPEP §2106(IV)(B)(1)(c).

Therefore, Applicant requests withdrawal of the Examiner's rejection under §101.

Rejection under §102

The Examiner rejected claims 22, 26, and 33 under 35 U.S.C. §102(e) as being anticipated by Kennedy. Applicant respectfully disagrees. However, claims 22, 26, and 33 have been amended to more clearly define the present invention.

Kennedy fails to anticipate amended claim 22. The Examiner asserted that Kennedy teaches that for each order, the promised shipping date and the projected shipping date are automatically compared “as quotation not received from client by the date and time specified (col. 12, lines 4-23).” *Office Action, supra at 6*. Amended claim 22 calls for, in part, automatically comparing the promised shipping date and the requested shipping date for each order. A quotation not received from a client by a date and time specified does not teach or suggest comparing a promised shipping date and a requested shipping date for each order. Since the quotation has not been received from a client, Kennedy teaches that the “quotation [is] essentially null and void . . .” *Col. 12, lines 4-7*. As such, no order has been placed by the client or filled by the supplier. Since no order has been placed or filled, a comparison of the promised shipping date and the requested shipping date for each order is not taught or suggested in Kennedy.

Additionally, amended claim 22 calls for automatically displaying generated proactive alerts, the number of orders for each product category, the expected revenue for each order and the shipment quality metric in a tabular format on a user viewable medium.. While the Examiner asserted that Kennedy teaches displaying “the shipment quality metric in a tabular format on a user viewable medium” (*Office Action, supra at 7*), the Examiner failed to indicate where Kennedy teaches displaying the proactive alerts, the number of orders for each product category or the expected revenue for each order in a tabular format on the user viewable medium. Kennedy fails to teach or suggest automatically displaying generated proactive alerts, the number of orders for each product category, the expected revenue for each order, and the shipment quality metric in a tabular format on a user viewable medium.

Kennedy also fails to teach or suggest automatically generating a proactive alert if the promised shipping date is later than the requested shipping date for each order or automatically determining a shipment quality metric for all orders that have shipped.

For at least all of these reasons presented above, claim 22 and the claims that depend therefrom are neither anticipated nor obvious over the art of record. Claims 38-39 are newly presented herein and depend, directly or indirectly, from claim 22. Applicant appreciates the Examiner’s entry and consideration of claims 38-39. No fee is required for entry of claims 38 and 39 because an examination fee for 21 claims has previously been paid, and entry of claims 38 and 39 brings the total number of claims under examination to 18 claims.

Kennedy also fails to anticipate amended claim 26. Amended claim 26 calls for, in part, creating a proactive alert if a promised shipping date is later than a requested shipping date for

each order. As explained above, Kennedy fails to teach or suggest that a quotation not received from a client by a date and time specified compares a promised shipping date and a requested shipping date for each order. Since Kennedy fails to teach or suggest that the promised shipping date and the requested shipping date are compared for each order, Kennedy also fails to teach or suggest creating a proactive alert if a promised shipping date is later than a requested shipping date for each order.

The Examiner further stated that Kennedy teaches “‘sum of projected revenue for each product in production’ as a total price (col. 20, lines 60-65).” *Id.* Amended claim 26 calls for, in part, one or more programs that cause one or more computers to create a sum of orders for all orders in a determined period of time and to create a sum of revenue for the sum of orders. Kennedy teaches quotation attributes including “(3) maximum total price (base currency) maximum total price of quotation calculated at fulfillment server 16 in the base currency, representing upper bound of price quotation; (4) minimum total price (base currency)--minimum total price of quotation calculated at fulfillment server 16 in the base currency, representing lower bound of price quotation” *Col. 20, lines 61-67.* A quotation minimum total price and maximum total price fails to suggest creation of a sum or revenue for the sum of orders for all orders in a determined period of time.

For at least the reasons presented above, claim 26 and the claims that depend therefrom are neither anticipated nor obvious over the art of record.

Kennedy also fails to anticipate amended claim 33. Amended claim 3 calls for, in part, calculation of a difference between a promised shipping date and a requested shipping date for each order. As explained above, Kennedy fails to teach calculation of a difference between a promised shipping date and a requested shipping date for each order. Kennedy also fails to teach or suggest calculation of a total revenue for the orders in production for each product category or the display of, in a table, the total revenue and a proactive alert for each difference if the promised shipping date is later than the requested shipping date.

For at least the reasons presented above, claim 33 and the claims that depend therefrom are neither anticipated nor obvious over the art of record.

Therefore, in light of at least the foregoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 22-39.

Applicant appreciates the Examiner's consideration of these Amendments and Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,

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